

REMARKS

Claims 1-29, 32-34, 38-42, 45-47, 52, 55-62 are pending.

The Applicant notes with disappointment that the indicated allowability of the subject matter of Claims 37, 50 and 55-58 has been withdrawn.

The Applicant greatly appreciates the Examiner's time and consideration of Applicant's arguments during the telephonic interview on May 1, 2008..

Rejection under 35 U.S.C. § 103

A. Claims 1-3, 8-10, 21-28, 38-41, 43, and 59-62 are improperly rejected as being unpatentable over Zendle in view of Sinha et al and Lampe et al.

Claim 1, recites *inter alia*:

A point to multipoint communication system for providing broadband wireless communication between a first computer network and one or more other computer networks comprising:

a hub comprising:

...

a plurality of primary communication link interfaces each including a modem; and

a redundant communication link interface including a redundant modem distinct from said plural modems;

...

whereby, for each node, at least one primary communication link is established between the remote communication link interface at the node and at least one of the plurality of primary communication link interfaces at the hub; and

whereby, for each node, a redundant communication link is established between the remote communication link interface at the node and the redundant communication link interface at the hub;

...

[Emphasis added].

The Office acknowledges that Zendle and Sinha fail to explicitly disclose a redundant communication link interface including a redundant modem distinct from said plural modems.

The Office improperly relies upon Lampe to provide such a teaching. The Office states, “Lampe teaches a redundant communication link interface including a redundant modem distinct from said plural modems” and cites Fig. 2 and paragraph 0019 as a basis.

The Office misread Lampe. Lampe does not disclose a redundant communication link interface, much less a redundant modem distinct from the primary modems.

Lampe provides a primary link interface, using two modems with different configurations, both on the primary communication link. Lampe states:

“When in the primary operational configuration, the modem initiates set-up of a communication toward a remote server and utilizes a fixed data rate and a fixed set of features....If the set-up of the communication at the fixed data rate and fixed set of features fails, the modem falls-back to the secondary operational configuration and initiates the set-up of a communication towards the remote server using conventional modem negotiation procedures” **Abstract.**

“In the secondary modem pool 154 on the other hand, the data rate and features to be used for data communication are susceptible to

conventional modem negotiation determination and selection during call set-up while taking into account the unique capabilities of the modes 130 and the currently experience quality of the air interface connections” paragraph [0019]

The availability of the primary operational configuration modem is not determinative of the use of the second operational configuration modem. Rather Lampe clearly disclosed that the selection of configurations is based on the mobile’s modem capabilities, not the availability of other hub modems.

Lampe teaches two modems on the primary communication link, and therefore cannot be a teaching for a modem on the primary link and a separate modem on the redundant link.

Lampe also teaches against the combination. The claims required that both a primary and redundant communication link be established, however, Lampe in the interest of time and resources clearly teaches only one link be established and both modem are associated with the primary communication link. Lampe states:

“Given a reduction in overall communication time for making data communication reports that is due, at least in part, to a reduction in the length of time needed to engage in modem negotiation procedures with the primary modem pool, the present invention allows for a reduction in cost due to both decrease air time charges and a smaller dimensioning of the primary modem pool resources”
paragraph 0025

The combination of Zendle, Sinha and Lampe do not disclose a redundant communication link interface including a redundant modem or that a primary and redundant link are established for each node.

Therefore absent a teaching in Zendle, Sinha and Lampe alone or in combination,

a *prima facie* case of obviousness can not be made. The rejections of independent Claim 1 and similarly Claims 25 and 38 which recite common limitations are improper and must be withdrawn.

Likewise the rejections of Claims 2-3, 8-10, 21-24, 26-28, 39-41, 43, and 59-62 which properly depend from Claims 1, 25 and 38 are improper without recourse to the additional patentable features recited therein.

B. The Office improperly rejected Claims 4-7 as being unpatentable over Zendle, Sinha, Lampe and Stanwood.

The addition of Stanwood does not obviate the deficiencies of Zendle, Sinha, and Lampe as discussed above with respect to Claim 1.

The rejections must be withdrawn.

C. The Office improperly rejected Claims 11-20, 29, 32, 33, 34, 42, 45-47, 52 and 55 as being unpatentable over Zendle, Sinha and Lampe as applied to claim 10, and further in view of Carney.

The addition of Carney does not obviate the deficiencies of Zendle, Sinha, and Lampe as discussed above with respect to Claim 10.

The rejection must be withdrawn.

D. The Office improperly rejected Claims 56-58 as being unpatentable over Zendle, Sinha, Lampe and Carney as applied to Claim 55, and further in view of Jeon.

Jeon does nothing to obviate the deficiencies of Zendle, Sinha, Lampe and Carney as applied to Claim 55.

The rejection must be withdrawn.

Conclusion

As shown above and discussed during the May 1, 2008 interview, the Office has failed to establish a proper *prima facie* case of obviousness, as all of the limitations have not been disclosed in the combined references. Without a showing of all the limitations in the cited art, the obviousness rejection fails. The application, including Claims 1-29, 32-34, 38-42, 45-47, 52, 55-62, is in condition for allowance.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephonic or in-person interview would advance the prosecution of the Application.

While additional extension fees are not deemed necessary at this time, the Office is hereby authorized to charge any appropriate extension fee to Deposit Account No. 04-1679, Duane Morris LLP.

Respectfully submitted,

/mcc/

Mark C. Comtois

Reg. No. 46,285

DUANE MORRIS LLP
505 9th Street, N.W., Suite 1000
Washington, DC 20004
Telephone: (202) 776-7800
Telecopier: (202) 776-7801

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